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In the

Supreme Court of the United States

WHOLE WOMAN'S HEALTH, ET AL.,
Petitioners,

v.

KIRK COLE, COMMISSIONER, TEXAS DEPARTMENT OF STATE HEALTH SERVICES, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF ADVOCATES FOR YOUTH AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*[1]

Advocates for Youth ("Advocates") is a nonprofit organization that helps young people make informed

[1] Pursuant to Sup. Ct. R. 37.3(a), amicus certifies that both parties have consented to the filing of this brief. Pursuant to Sup. Ct. R. 37.6, amicus certifies that no counsel for any party authored this brief in whole or in part, no party or party's counsel made a monetary contribution to fund its preparation or submission, and no person other than amicus or its counsel made such a monetary contribution.

and responsible decisions about their reproductive and sexual health. For more than three decades, Advocates has partnered with youth leaders, adult allies, and youth-serving organizations to advocate for effective adolescent reproductive and sexual health programs and policies. Advocates helps develop programs that recognize young people's rights to honest sexual health information; accessible, confidential, and affordable sexual health services; and the resources and opportunities necessary to create sexual health equity for all youth.

In 2011, Advocates initiated the "1 in 3 Campaign" to encourage women who have had abortions to publicly share their stories. Over the last three years, more than 900 women have shared their personal experiences with abortion through the campaign. In the process, these women have opened up a rich personal conversation about abortion in our society Their stories reveal the varied nature of women's real-life experiences and the factors that inform their decisions. Advocates files this brief, which includes excerpts of some of these stories, to help illuminate the facts of the lives of real women and contextualize the critical role of access to abortion.[2]

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[2] Counsel for amicus curiae acknowledge attorney Jill E. Adams and the Center on Reproductive Rights and Justice at U.C. Berkeley School of Law for vital insights shared in the preparation of this brief.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Abortion is common, routine, and safe. At current rates, approximately one in three American women will have had an abortion by the time she reaches age 45.[3] Complications and abortion-related hospital admissions are rare.[4]

The women who choose to have abortions are a diverse cross-section of the U.S. population. They are married and unmarried, religious and not, and represent every part of the socio-economic spectrum.[5] No racial or ethnic group makes up a majority of women who have abortions, and more than half of them have one or more children.[6]

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[3] *State Facts About Abortion: Texas*, Guttmacher Institute, http://www.guttmacher.org/pubs/sfaa/texas.html (last visited Dec. 30, 2015).

[4] *See* Elizabeth G. Raymond & David A. Grimes, *The Comparative Safety of Legal Induced Abortion and Childbirth in the United States*, 119 Obstetrics & Gynecology 215, 216 (2012); Ushma D. Upadhyay et al., *Incidence of Emergency Department Visits and Complications After Abortion*, 125 Obstetrics & Gynecology 175, 181-82 (2015).

[5] *See State Facts About Abortion: Texas*, Guttmacher Institute, http://www.guttmacher.org/pubs/sfaa/texas.html (last visited Dec. 30, 2015).

[6] *See Fact Sheet: Induced Abortion in the United States*, Guttmacher Institute (July 2014), http://www.guttmacher.org/pubs/fb_induced_abortion.html; *Fact Sheet: Unintended Pregnancy in the United States*, Guttmacher Institute (July 2015), http://

Consistent with their varied circumstances, women who choose abortion do so for highly individualized reasons in the midst of complex circumstances.[7] Their decision-making processes are not readily generalizable. After all, a woman's decision to end a pregnancy is specific to *her*—her goals, her challenges, her relationships, her responsibilities, and her understanding of her place in the world. The personal nature of the decision means that women's real-world experiences must be included in the assessment of whether an abortion regulation unduly restricts access to abortion.

Legal restrictions on abortion must be understood in the context of a wide range of factors that, in combination with those restrictions, result in the kind of "undue burden" that *Casey* proscribes. *Planned Parenthood* v. *Casey*, 505 U.S. 833, 874 (1992) (plurality opinion). Cost, transportation, child care, employment insecurity, and domestic abuse are a few examples. Legal restrictions that exacerbate such obstacles do more than simply raise the degree of difficulty in accessing abortions—they can take meaningful choice on the ultimate decision away from women. Regulations that result in the imposition of lengthy travel for abortion access serve as *de facto* spousal or parental notification requirements, without any safety valve where that

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www.guttmacher.org/pubs/FB-Unintended-Pregnancy-US.html.

[7] *See* Rachel K. Jones et al., *More Than Poverty: Disruptive Events Among Women Having Abortions In The USA*, 39 J. Family Planning & Reprod. Health Care 36 (2013).

might pose a safety risk to the woman seeking care. The more expensive, remote, and lengthy abortion care is as a result of medically unnecessary regulations, the larger the fraction of American women who lack real choice becomes.

Women know that meaningful reproductive choice, including the decision of whether to seek abortion care, is critical to their ability to participate equally in the economic and social life of the nation. *See id.* at 856. A woman's autonomy to set the course of her life and partake of an equal role in the citizenry is predicated on reproductive choice.

Each of the varied experiences shared here illustrates how "central to personal dignity and autonomy" the decision to have an abortion can be. *See id.* at 851. Laws that restrict abortion needlessly, without actually promoting health as they purport to do, chip away at that dignity and autonomy.

ARGUMENT

I. A WIDE RANGE OF FACTORS INFORMS WHETHER A LEGAL RESTRICTION POSES A "SUBSTANTIAL OBSTACLE" FOR WOMEN WHO SEEK ACCESS TO ABORTION.

Whether to have an abortion is a deeply personal decision that is informed by the daily experiences and context of a woman's life.[8] A law that "imposes an undue burden on a woman's ability to make" that decision violates the constitution. *Casey*, 505 U.S. at 874. "An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability" *Id.* at 878. Below, women describe how "substantial obstacle[s]," *id.*, arise in seeking abortion care.

Cost. The Court has acknowledged that increased cost could constitute a substantial obstacle to seeking an abortion. *Id.* at 901.

> **Nicole Perez:** I was 17 at the time and my birthday was a month away when I found out that I was pregnant * * *. My boyfriend was delivering pizza in his first year of college. I was about to graduate high school and start college. We knew [having a child] wasn't possible, but

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[8] *See* Lawrence B. Finer et al., *Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives*, 37 Persp. on Sexual & Reprod. Health 110, 117 (2005) ("The decision to have an abortion is typically motivated by diverse, interrelated reasons.").

that does not mean it was easy * * *. Being that we did not want our parents to know, we could not use our insurance and had to pay for [the abortion] on our own. When we first started calling, we kept hearing $700-$1100, which was not in our price range. We needed to get it as soon as possible; I was showing. After a few days we came across a place for $350. It was the lowest we could find * * * I am so grateful that abortion is legal in New York City, because if it was not I could not be following my dreams. I know it will be the right time when I'm done with college, and I know that I had to do it because I was not ready.

Saiya Miller: When I discovered I was pregnant, the first person I called was my sister, a nurse midwife who lives and practices in California. She helped me navigate my options. * * * At the time, I was 25 years old and my health insurance coverage was still obtained through my father's employer until I turned 26. However, the insurance plan's coverage was very limited in Louisiana and Texas. Therefore, I might risk my insurance being denied, or having huge costs associated, at one of three places: the ultrasound I would obtain in Louisiana or Texas, the possible medical abortion (pills taken rather than surgical procedure) if I was under 7 weeks pregnant, or the [surgical procedure] I would need if I was over 7 weeks pregnant. Then, I factored in travel costs. If I travelled to Shreveport, Louisiana or Houston, Texas, the cost of my gas and/or plane ticket, plus the lodging I would need during my

> abortion and recovery, would have [been] hundreds of dollars.
>
> All these factors led to me making the decision to buy a plane ticket to California, which was pretty much the same cost as a ticket to Houston. I knew my sister could arrange an ultrasound through her practice * * * My insurance at the time would cover the cost in full through that practice and hospital—a bill that would have been over two thousand dollars if I was not covered. Plus, I could stay with my sister while I recovered. The decision was relatively easy for me to make based on all these things, but I was lucky to have these options available to me.
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> **Lisa Ginardi:** When I found out I was pregnant, it was late—close to the legal number of weeks [in which you are allowed] to have an abortion in my home state. * * * I was violently ill, too ill to go to work consistently, so I lost my job. It was a brutal ticking time bomb, trying to scrape together enough funds in time to afford the procedure, which now cost even more because it was close to the time limit. [The man involved] ended up pawning his most prized possession to pay for it * * * something that would now be of great value. I've always felt guilty about that. The day I went to the clinic was one day before the legal limit. I recall them telling me that. It was agonizing to feel one day away from what felt like life-changing, imminent doom.

Logistics. Restrictions that raise barriers to abortion care, such as those that result in women waiting longer for appointments, traveling farther,

and being away from home longer pose "substantial obstacle[s]." *See Casey*, 505 U.S. at 878. Transportation, the demands of child care, and the need to secure time off from work exacerbate the difficulties imposed by such laws. Relatively privileged financial circumstances may be required to overcome these obstacles where care is remote.

> **Suzanne Dalton:** I didn't have insurance or a gynecologist, so I knew my cheapest hope [for obtaining birth control] was Planned Parenthood * * * New restrictions had been approved by the legislature that effectively cut millions in funding for Planned Parenthood, and our Huntsville clinic had no choice but to close its doors. The next nearest clinic that I could go to for birth control was all the way in Houston, over 150 miles roundtrip and an hour away. That's when I made the decision that condoms would just have to be good enough. I could barely afford food, much less gas to and from Houston, plus the costs of the pills. * * * Surprisingly, when I saw the two blue lines [indicating a positive pregnancy test], I was completely calm. I knew what needed to happen. I called the Planned Parenthood in Houston and made an appointment.

> **Candice Russell:** I realized I was pregnant again in the spring. Due to a combination of how far along I was and a lack of availability for appointments at clinics in the Dallas–Fort Worth area it was decided that I would travel to California, where my then-partner lived, to undergo my surgical abortion. I realize just how privileged I am to have been able to do this. The

places in my state where access is the most hindered are unfortunately also vastly under-resourced. People in the Rio Grande Valley for the most part cannot just get on a plane and travel 1500 miles away to have an abortion. I am a very lucky woman to have been able to do what I did.

Rachel Barnes: I had been admitted into the hospital for an unrelated condition * * *. They didn't give me my birth control due to their beliefs on such things, so I missed a pill and became pregnant. The OBGYN I was seeing at the time noticed my blood pressure rising (a sign that the pregnancy was endangered), but they declined to do an abortion, and handed me a paper [listing] clinics inside and outside of West Virginia that did the procedure. I was told by my insurance [that] they didn't cover such things and ended up having to put the procedure on my credit card and the travel to get back to Maryland, where [I wouldn't be required] to go to a crisis pregnancy center for biased counseling and wait the waiting time period West Virginia [required]. My husband and I traveled to Hagerstown, Maryland. * * * I got the abortion and felt a great sense of relief afterward. My regular OBGYN treated me oddly after the procedure, so I ended up having to find a new OBGYN and go back to Hagerstown to make sure everything was fine. * * * So all in all: two trips from West Virginia to Maryland, about 1000 dollars with car costs and such, a new OBGYN, and a great sense of relief. But it shouldn't be that way.

Safety. This Court has recognized that "women who fear for their safety and the safety of their children" may "be deterred from procuring an abortion" where notifying abusive family members would risk triggering physical and psychological abuse. *Casey*, 505 U.S. at 894. Restrictions on abortion that result in long distances to providers force women who seek abortions to be away from home for longer periods of time. Such absences do not go unnoticed by partners and parents. Restrictions like these thus place an added burden on women in dangerous circumstances: they make it extremely difficult to seek abortion privately. Regulations that force a woman to travel hundreds of miles away for days at a time are *de facto* spousal or parental notification requirements.

> **Sondra Day:** I was with a mentally abusive man and I hadn't been using birth control [aside from] the "pull out method." One time he decided he wasn't going to use that method, but instead he faked it. Weeks later when I couldn't stop throwing up, I took a test and two lines showed up. I was panicked and felt trapped. I knew I financially couldn't support a child nor was I in the mental state to. (I had just been diagnosed with Borderline Personality Disorder and PTSD.) When I brought up abortion to him, he and I fought until I told him that with or without his help an abortion would be happening. I'll never forget walking into the clinic and paying for the pills. Being as poor as I was, I was lucky I could pay for the procedure. But I knew if I couldn't afford $400 for the pills, I certainly couldn't afford a child, and that child would suffer.

Laura Adler: My dad molested me until I was 13. He didn't impregnate me, but I believe growing up that way made it hard for me to say "no." At 16, on a rare occasion when my boyfriend's mom was out, we were looking forward to having sex. I [changed my mind] when he told me he forgot condoms, but he made me feel like [expletive], so I said yes. I was later told I had no one to blame but myself. I asked him for money and a ride for an abortion, but he was broke and busy, so I found a way myself.

It was 1983. I lived in Virginia, which now has a parental notification law, but I would rather have killed myself than told my abusive parents I was pregnant. I meant it: I attempted suicide 2 years later, thinking I could not live with what my father did to me. That's why I didn't even consider adoption. That and the fact that I myself was adopted into an abusive family. I truly believe I wouldn't be here if it hadn't been for safe, affordable, confidential services, something that hardly seems to exist anymore. I have had much healing and happiness in my life, and I have two wonderful children. I owe those people so much. I feel like crying every time I hear of a clinic closing.

The effect of legal restrictions that create such obstacles goes beyond mere inconvenience and, when the realities of women's daily lives are taken into account, can in a "real sense deprive[] women of the ultimate decision." *Casey*, 505 U.S. at 875. Such empty choice is no choice at all.

II. WOMEN NEED MEANINGFUL REPRODUCTIVE CHOICE TO DETERMINE THEIR OWN ROLES IN THE WORLD AND "PARTICIPATE EQUALLY IN THE ECONOMIC AND SOCIAL LIFE OF THE NATION."

Women know first-hand that their ability "to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives." *Casey*, 505 U.S. at 856. That freedom to determine their own paths is at the heart of equality. *See id.* at 852 (noting that a pregnant woman's "suffering is too intimate and personal for the State to insist, without more, upon its own vision of the woman's role, however dominant that vision has been in the course of our history and our culture").

Women's ability to determine the course of their work and education, and to decide how they most meaningfully engage in civic and social life, is key to their full citizenship[9] and is "an important part of American civic self-identification."[10] And, as the Court has noted, access to abortion has long been something on which people rely when they decide how to organize their intimate relationships and engage with the world. *See Casey*, 505 U.S. at 856.

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[9] *See* Anita L. Allen, *The Proposed Equal Protection Fix for Abortion: Reflections on Citizenship, Gender, and the Constitution*, 18 Harv. J. L. & Pub. Pol'y 419, 426–28 (1995).

[10] Judith Shklar, *American Citizenship: The Quest for Inclusion* 1 (1991).

"[L]egal challenges to undue restrictions on abortion procedures do not seek to vindicate some generalized notion of privacy; rather, they center on a woman's autonomy to determine her life's course, and thus to enjoy equal citizenship stature." *Gonzales* v. *Carhart*, 550 U.S. 124, 172 (2007) (Ginsburg, J., dissenting). To determine her individual path through the world in terms of her education, work, civic participation, and social activities, a woman must be able to control her reproductive life. *See id.*

> **Sarah Hays:** I had an abortion today, and it's the last thing I ever thought I would do. I have two sons who are soon turning 5 and 2, and I co-own and operate a business in the healthcare industry * * * Before, I thought I wanted a third child, but I envisioned myself as a different mother than who I have discovered myself to be. As the pregnancy progressed from week 4 to 5, 8 to 9, I came to realize that a third child would have thrown off much of our family balance: I would have to stay at home more, sacrifice many of my working hours, shift much of my business responsibilities to my partners. As a result, we would be living with much narrower financial margins, and we are already living on a tight budget with no local family support. I personally would have struggled to keep centered as a caregiver: to the many people in my practice who are ill; for my husband and children; and for me.
>
> **Melissa Glenn:** I knew I wanted to end the pregnancy as soon as I found out. * * * As I type this, a college graduate without children, I know I

wouldn't have earned the same accomplishments if I had kept the baby. * * * It took me 6 years to graduate. A baby could have easily turned that time frame into 8-10 years. I would not have been able to take the valuable field courses I took in Costa Rica and the Galapagos Islands. I would never have met the sweet and amazing man I have been dating for 2 years. I would very likely be dependent on many government assistance programs * * *. I still made the choice to end a pregnancy because I knew it was the right choice. No child deserves to live a life of poverty, in an already broken home, with a father who is prone to abandonment. No woman deserves that life to be forced on her.

Renee Bracey Sherman: Abortion was the best decision for my situation, my future family, and my life. I was lucky; my independent abortion clinic was only 15 minutes away from my house, and I had a credit card to max out to pay for the procedure. I was able to schedule the appointment a few days after I made my decision, and I didn't have to endure a mandatory wait. And while I didn't tell anyone in my family about my abortion for 6 years, today, they are supportive of my decision and love me, no matter what.

To this day, I still think about the compassionate Orthodox Jewish nurse who held my hand throughout the procedure. Since my abortion, I was able to refocus myself in work, graduate college, receive a master's degree from Cornell University, and build a career advocating for

people across the nation. Every day, I am thankful for the ability to make the best decision of my life: my abortion.

Kathleen English: I was 41 years old and a mother to an 18-year-old, 14-year-old and 7-year-old. My husband and I had started a new business and put all of our savings into it, along with mortgaging all of our property and maxing out all of our credit cards. We were working from 8 a.m. to 10 p.m. every night and my kids were watching themselves (up until then I had been a stay-at-home mom). My 18-year-old started doing poorly in her behavior and at school, and we were starting to worry about whether she would graduate. Our new business, which we were sacrificing everything for, was struggling, and I found out we were pregnant again. Having a baby takes time and money that we no longer had. I had 3 kids already that needed my attention, and I didn't have time for them anymore. I had no maternity insurance, and Medicaid turned me down for assistance. We were 3 months behind on our mortgage and barely had money for groceries. My pregnancies had all been high risk due to premature labor, and now I was also over 40. I had an abortion at 10 weeks. It wasn't a difficult decision for me to make, I had no reservations before the procedure or regrets afterwards. My priority will always be to take care of the children that are already here.

Linda Stoker: I was six weeks pregnant when I had the abortion, and it was the most difficult decision I've ever had to make. Raising my

daughter on my own with sporadic child support was difficult at times. The only way I could have a baby is if I quit my good job and went on public assistance. In my mind that was not an option. There would have been no way I could pay for full-time daycare for two children. My focus was on my daughter, to give her the best life possible, and having another child would mean that I would not be able to feed, clothe, house, and adequately provide for all the needs of two children. I agonized trying to make the decision to have or not have an abortion. It was not done lightly as many anti-abortion people suggest. There is no question, no doubt in my mind that abortion was the best thing for me to do at that time.

Anne Hopkins: In pre-*Roe* 1965, I was 19 years old, a sophomore at UC Santa Barbara * * * But, I knew I was not mature enough for marriage, let alone rearing a child alone and supporting him or her without my college degree. I was the world's expert on my own life. I suspected I was pregnant and confirmed it through a multi-week, expensive process—no simple kits at the drugstore for us gals, back then. I needed an abortion. When I made that decision, I was prepared to risk death. I'd heard all the horror stories.

My boyfriend arranged for the abortion, and we drove to a bar in Tijuana. A man came in to collect the money and take me somewhere. We didn't know where. My first anxiety that I really might die came when my boyfriend was not

> allowed to come with me. Then came the circuitous route driven by a second man. I may have been blindfolded—I don't recall. I know I was close to panic, though. * * *
>
> When anti-abortion protesters proclaim proudly that they are here because their mothers chose not to abort them, I immediately think about my own two daughters. Had I not refused to allow my "first, potential child" to develop and be born, I would never have met my step-daughter and my natural daughter would never have been born. That is a heartbreaking thought.

III. REGULATIONS THAT DEMEAN OR CONTROL A WOMAN'S ABORTION CHOICES UNCONSTITUTIONALLY UNDERMINE HER DIGNITY AND AUTONOMY.

The decision whether to have an abortion is one of "the most intimate and personal choices" of a lifetime, and that choice is "central to personal dignity and autonomy." *Casey*, 505 U.S. at 851. "At the heart" of this protected liberty "is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." *Id.* A woman must be able to determine, without being demeaned, the boundaries of her person, family, and life.

The Court has long recognized that individuals have the right "to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child." *Eisenstadt* v. *Baird*, 405 U.S. 438, 453 (1972). Indeed, "choices

concerning contraception, family relationships, procreation, and childrearing" are "inherent in the concept of individual autonomy." *Obergefell* v. *Hodges*, 135 S. Ct. 2584, 2599 (2015). *See also Lawrence* v. *Texas*, 539 U.S. 558, 574 (2003) ("[O]ur laws and tradition afford constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education."). Limiting that autonomy to decide one's personal destiny hurts women who are deciding whether to have an abortion.[11]

Carrying a child to term alters the course of a woman's life in intimate and profound ways. A woman's "own conception of her spiritual imperatives" must be able to bear on her decision. *Casey*, 505 U.S. at 852. Women's experiences illuminate how the decision to have an abortion "concern[s] not only the meaning of procreation but also human responsibility and respect for it." *Id.* at 853.

> **Jennifer Smith:** In the spring of 2009 I gave birth to my second child Ethan. He had red hair,

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[11] *See* M.A. Biggs et al., *Does Abortion Reduce Self Esteem and Life Satisfaction?*, 23 Quality Life Res. 2505, 2509 (2014) ("[B]eing denied an abortion [] is more harmful to a woman's feelings of self-worth and well-being, at least at the outset, than having an abortion."); Laura F Harris et al., *Perceived Stress and Emotional Social Support Among Women Who Are Denied or Receive Abortions in the United States: A Prospective Cohort Study*, BMC Women's Health, June 19, 2014, at 6 (noting that denial of abortion care may initially "exacerbate stress, making a woman feel disempowered or unable to cope with the stressor").

big blue eyes, and owned my heart from the moment he was conceived. However, in October of that year he started getting sick. It took months and countless dead ends (including him being put in the ICU) before we learned what was wrong. Ethan had inherited a genetic disorder called Severe Combined Immune Deficiency Syndrome (SCIDS), commonly referred to a "bubble boy" syndrome. After months and months of Ethan going through chemotherapy, and right before he was given a stem cell transplant, I learned that I was pregnant again.

I was scared and so was my husband. * * * We were already in massive debt due to Ethan's constant medical needs, and also did not want to bring another child into this world just to watch them suffer as well. We also could not care for Ethan properly with a newborn to take care of (a lot of the medication he was on was toxic and we were forced to treat diapers and other care items as hazardous materials; he also required medications every 4 hours). So we decided as a couple to end the pregnancy. Ethan only had a 10% survival rate when he was diagnosed and ended up passing away in 2011. I do not regret my abortion.

Debra Hauser, President, Advocates for Youth: In 1995, at age 35, I found myself alone, pregnant and caring for my six-month-old son. My husband had gone to work one day and did not return. Weeks passed without word. For more than a month, I didn't tell anyone that he was gone. Not my family, not my co-workers, not

my friends. I simply went to work each day, attended to my job, and pretended everything was fine at home. Each evening, I left work, picked up my son from daycare and did my best to care for him without distraction. Six weeks had passed when I realized I was pregnant. Alone, with little money and a baby to care for, it was clear to me that I could not care for another child. I did not know where my husband was; I did not know what would happen to my marriage; I wasn't sure I could make ends meet. How could I add another child to such an untenable situation? I chose to have an abortion then and there. It was the best choice given my circumstances.

Much later, my husband returned. The following week he was diagnosed with bipolar disorder but refused to stay on his medication. We were eventually divorced and a few years later, he committed suicide. To this day, I am certain that choosing an abortion was the most responsible, moral, and loving action that I could have taken—for me and for my son.

Hannah Kretvix: After the ultrasound, they prepared me for the procedure and Tim came to hold my hand. During the few minutes of intense cramping, I looked up, through tear-filled eyes, at the world map hanging on the ceiling above my head. I wondered if the person who chose that poster thought global geography would be comforting to the women who found themselves in my position. Tim interrupted my thoughts by squeezing my hands. "I love you."

As quickly as it had begun, the procedure was over and I was being discharged. Next, I remember sitting in a cart in the Hannaford's, while Tim pushed me through the aisles in search of snacks. Once we had settled on freezer pops and mac and cheese, we drove back to the house with plans to paint, sleep, and heal together. His presence was a reminder that I was not alone. For the following days, I was a confusing mix of hard-to-name emotions. Tim and I continued painting, binge-watching Netflix, and eating junk food until we felt ready to reconnect with the world. And when we were ready, we moved forward. I finished my summer job and started my first year at college.

I expected to feel regretful and ashamed, and was surprised to find that I felt relieved. I felt grateful. My decision was not an easy one, and there were many moments where the feelings of loss overwhelmed me. But I made a decision which allowed me to continue my life, pursue an education, travel, and focus on a career until I was ready to start a family, intentionally. For that, I was grateful. I was grateful to have been able to make this decision without fear of intimidation and violence, or use of a dangerous back-alley provider. When I think about the many women before me who had abortions in unsanitary, unsafe, or unpleasant circumstances, I am grateful for the incredible progress that's been made.

Tara Schleifer: After facing a nine-year grueling, exhausting, expensive repeating cycle of

> hope and devastation due to unexplained infertility, I found myself pregnant, the old-fashioned way. What an exciting surprise! My son, who was 3 at the time, would finally have a much-loved sibling. My dream of a family was finally coming true.
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> My dream turned into my absolute worst nightmare. * * * I learned how much the pregnancy itself was endangering my life. Those abnormal proteins [associated with various congenital abnormalities] correlated very strongly with life-threatening placental conditions that would more than likely develop as the pregnancy progressed. Leaving my son motherless and my husband a grieving widow and single dad was not an option I was willing to entertain. I felt strongly my obligations to people already living and breathing trumped the rights of a very ill fetus. I know intimately the continuous grief that accompanies intellectual impairments and chronic illnesses from caring for my mother. That grief ripples through families and generations. I could not continue the cycle in good conscience.

Abortion implicates not just "the private sphere of the family" but also "the very bodily integrity of the pregnant woman." *Casey*, 505 U.S. at 896. Regulations that, by design or practical operation, deprive women of abortion choices also hurt women by denying them control over their own bodies.

> **Shelby Vaughn**: I was barely 18, and toward the end of completing a military training cycle at Fort Sam Houston, TX when I found out I was pregnant. * * * Being in the military and in the

midst of training, I didn't know how to approach anyone about obtaining an abortion and any answers of how it would affect my progress in completing the cycle. When I informed my drill sergeant I was pregnant and wanted an abortion, he ignored my request and said things like I needed to take responsibility for my actions and accept I'd be a mother soon. * * * I was mortified, and for many reasons. First, I was experiencing an unplanned pregnancy and emotionally distraught about my future. Second, I was brushed aside by male authority figures who were determined I was going to have a child. Third, I was part of an organization that was denying me my constitutional rights to access an abortion and had a right to because when I enlisted I became property of the U.S. Army. And, as their property it was decided abortion was not an option for me. Once again I was mortified, along with feeling loneliness, anxiety, and fear. I appealed to my liaison, who, without any surprise, supported my commander's decision and he basically told me I had no "choice," but to concede and accept the consequences of my actions. * * *

When I returned to training [after having an abortion] I faced an indifferent drill sergeant and commander who used their time and influence to make my life more difficult than should be until the training cycle ended. I was also faced with the loss of respect and negative judgments of fellow soldiers, male and female, with some turning their backs on me completely. I know what it's like to have your choice and constitutional rights violated by the very

institution that is sworn to defend and uphold the U.S. Constitution. For a moment in time I knew what it felt like to be under the thumb of a man and institution who has the power to dictate my reproductive decisions, and the emotional distress, loneliness, feelings of devastation and breathlessness accompanied with having "no choice," along with the judgment passed against me for choosing abortion. At that moment in time, being forced against my will to undergo a pregnancy, I [knew] what it feels like to have no control over the future, with my goals and dreams of the future shattered by the will of men who vehemently exercised their power to control my reproductive choices.

Deborah Dorsett: As I was sitting in the chair waiting, you could hear the yelling of the protestors getting louder and louder. Then the back door opened, and from where I was sitting I could see two security guards that came into the back door with a gentleman that had a Halloween mask on his face. He stood in the doorway and then removed the mask. He was the doctor that was going to be performing the abortions. I asked one of the nurses why he had a mask on, and she explained that the protesters had threatened to kill him and his family, so he had to remain anonymous. I was in shock that I was living in America and this was what I had to go through.

Carrie Harris: I went to my Obstetrics appointment and had my ultrasound. I demanded to know exactly how far along I was. She told me I was 19 weeks, 3 days. Twenty

weeks is the cut-off for an abortion in Alaska. I asked for an abortion and they refused. I screamed, cried, and begged for a referral, but was refused. When I asked the girl at the front to give me a list of providers, she literally turned her chair back to me.

Marketia Patterson: I'm the woman the politicians don't want you to think about: stable marriage, decent education, stay-at-home mother to a five-year-old, 32 years old and desperately wanting more children. We had been trying to have another child for four years, and I had had three first-trimester miscarriages. I became pregnant again in 1991 and once past the sixteen weeks we thought we were safe. I went in for a routine sonogram with my five-year-old in tow to see the heartbeat.

There's that moment when you see the heartbeat and all is well, and then it all goes wrong. You hear words like catastrophic birth defects, incompatibility with life, etc., and everything stops. There were mad dashes to a perinatologist, meetings with a genetic specialist, and we listened to our options: Continue on with the pregnancy, which will end with a dead or dying baby, or terminate the pregnancy. It was one of the most difficult decisions I have ever had to make, or so I thought. I was admitted to the hospital on June 11, 1991, and labor was induced. I was 17-18 weeks pregnant. The staff at the hospital was wonderful and caring.

Jump forward a year and once again I am pregnant. After all, nothing could be worse than

what had happened the previous year. Once again, the ultrasound showed a neural tube defect, known as Anencephaly. Our daughter had no brain, and there was no hope of life. We were faced with the same choices: continue on and plan a funeral, or end the pregnancy. We ended the pregnancy. I am so grateful that I was able to have the procedures done in a safe hospital, with a caring staff and no one to judge me. I don't regret what I did, if I hadn't made those choices I wouldn't have the beautiful son who was born in 1995, and no one should make that choice for me other than me!

Pamela Noblitt: In 1971, a year before *Roe* v. *Wade*, I was a 22-year-old, married nursing student in Denton, Texas. I contracted tuberculosis and was placed on a regimen of multiple medications in an effort to control the disease. While on a new, experimental medication, I learned I was pregnant. The physicians explained that (1) they did not think I could survive a full-term pregnancy at that time and (2) there was a better than 50% chance that the baby would suffer severe and likely fatal birth defects subsequent to the medications I had been taking. * * * [The doctor] performed the procedure in hospital and I was forced to spend the night on the maternity ward, sharing a room with a healthy new mother and her baby. I believe the doctor engineered this in order to punish me. * * * Of course we regret that the procedure was necessary and we wish we had had other options, but the science was simply not advanced enough at that time. We believe we made the right choice

> for us, and we believe that every woman should have that choice to make.

Medically unnecessary "health" interventions demean women even further. Such regulations paternalistically strip women of control over their own care; they cannot exercise their own judgment. And they demonstrate a core disrespect for women's time, resources, and energy—all of which these laws freely waste. *See Casey*, 505 U.S. at 878 ("Unnecessary health regulations that have the purpose or effect of presenting a substantial obstacle to a woman seeking an abortion impose an undue burden on the right.").

> **Wesley Elianna Smith:** On February 3, 2015, I had an abortion. Almost five years ago, after three first-trimester miscarriages, I was diagnosed with thrombophilia, MTHFR Factor V Leiden. It's a genetic mutation that causes blood clots and miscarriages, among other complications. As a result I was prescribed Heparin injections, twice a day, in my stomach to sustain both my life and my son's during my fourth and finally successful pregnancy. * * * Because of my condition, carrying another child to term is entirely out of the question.
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> * * * Did I know without a shadow of doubt that this pregnancy would result in my death or disability? Yes. I couldn't play with my son, let alone take care of him on my own. I could barely get dressed for work, let alone give it my all 45 hours a week. Debilitating fatigue, chronic pain, continual high blood pressure, headaches, and nausea zapped my strength and my body began to

feel like it was quite literally failing me. I was dying. I say that not to be melodramatic. I say that because that is the only way to describe how it felt.

So I made my choice. I called the clinic and went through the state of Louisiana's mandatory "counseling." I read the detailed explanation of all the possible, if extremely improbable, complications that could arise from an abortion. I should note that when the surgeon was going to sever my uterus in two to cut my son out, I received no such documentation. When my son was intubated for his adenoidectomy, I received no such documentation. But for a procedure that carries a less than 0.25% chance of something going wrong when done by a licensed and trained medical professional, the state of Louisiana's "care and consideration" for my being fully "informed" was, frankly, insulting to my intelligence.

I especially did not appreciate the questionnaire that made me verify that I was not being coerced into having this procedure against my will; that I was properly counseled on the alternatives; that I had been described the development of the fetus inside me by the ultrasound technician; and the final question asking if the father was married (that notably lacked the most obvious follow-up question: are you married to the him?). I filled that part in. The doctor who performed my procedure was kind, professional, and highly skilled. It was over in a matter of minutes. My blood pressure was 160/94 when I went into the

clinic that morning. It was 130/83 when I left and 117/75 by dinnertime. I felt alive again. I felt like I was brought to the brink of death and returned to health. I am alive and healthy today because I could terminate the pregnancy that was slowly draining away my life. I am not ashamed of having had an abortion. I endured months of pain and fear to bring our son into this world, and there is nothing that I will not do to make sure that I am alive and healthy to see that wonderful little human being grow up.

Amanda Ward: The worst part was the intervaginal ultrasound—it was invasive and humiliating. In Wisconsin, where I live, the doctor must show the patient the ultrasound screen and describe any heartbeat activity. I was at six weeks; the fetus was about one centimeter long. The second-worst part was the protesters outside the clinic. They didn't make me question my choice in the least, but they held very graphic, deceptive signs depicting what appeared to be full-term babies, their skin burnt and their bodies disfigured. * * * I felt an immense relief as soon as I left the clinic.

Maryam Janani: I was fortunate to attend Harvard for college where I majored in neurobiology, but my passion lay in ensuring that others had the same opportunities as me. So after college, I left for rural Kenya where I worked on health and education programs for a couple years. * * * I was dating a guy—both of us came from the U.S. to work on programs we believed in—and the condom broke.

* * * Unfortunately, the closest pharmacy with pregnancy tests was hours away in the nearby city. A friend was thankfully traveling back and brought the tests to me. * * * The test came out positive, and I was in shock. * * * I took a morning-after pill [that did not work]. * * * I hid the news from the people around me for two weeks in this small rural town where everyone knew everything. People just thought I was sick. I called Planned Parenthood back in the U.S. when I could, late at night in Kenya in my bedroom, hoping that others would not hear me. I tried to get as much information as possible, tried to understand my options, and scheduled an appointment.

I flew back to the U.S. on my pre-scheduled departure day from Kenya. It was a long, crushing flight. But I was able to take a flight and get away from a place that restricted my rights, leave Kenya where abortion was illegal. I'm one of the lucky ones.

I chose to have a medical abortion, but I could only get it up to seven weeks in Texas and was arriving just under that deadline. So during my layover in London, I fulfilled Texas's ridiculous requirement for a 24-hour waiting period with mandated counseling including information designed to discourage abortion. Fortunately, the provider could chat with me on the phone. (I missed the really restrictive regulations that came after my abortion). So I sat in the London airport in a corner and listened to the doctor read

me her state-mandated script. Hearing her tell me my likelihood of breast cancer if I went ahead with the abortion (even though those studies have their clear methodological fault), and hearing about the risks from having an abortion (even though it's an incredibly safe procedure), because of a 24-hour waiting period that did not respect that I am a woman who already had thought through this long enough.

CONCLUSION

These first-person accounts represent the experiences of millions of American women who have sought abortion care despite numerous—and needless—obstacles. As this Court has repeatedly recognized, meaningful reproductive choice is critical to women's dignity, autonomy, and ability participate equally in the economic and social life of the nation. *See Casey*, 505 U.S. at 856. The stories related here show that the right to choose whether and when to have a child goes to the heart of independent personhood. The judgment below should be reversed.

Respectfully submitted,

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